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THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NOS.6020, 7820,9970,8438 & 11351 OF 2005

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W.P.NO.6020 OF 2005:

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The Gram Panchayuat, Ulligudem, represented by its Sarpanch Sri Kishan Rao

…….Petitioner

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Vs.

1. The Union of India, represented by the Ministry of Rural Development, Department of Land Resources, through its Secretary, New Delhi and two others.

…….. Respondents.

W.P.NO.7820 OF 2005:

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The Gram Panchayat, Mirjapur, represented by its Sarpanch Smt.T.Vasantamma

…….Petitioner

Vs.

1. The Union of India, represented by the Ministry of Rural Development, Department of Land Resources, represented by the Chief Secretary, New Delhi and two others.

……..Respondents.

W.P.NO.9970 OF 2005

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The Gram Panchayat, Imlapur, represented by its Sarpanch Dashya Naik

…….Petitioner

Vs.

1. The Union of India, represented by the Ministry of Rural Development, Department of Land Resources, through its GOI, New Delhi and two others.

……Respondents.

W.P.NO.8438 OF 2005

The Gram Panchayat, Gouraram, represented by its Sarpanch Smt.Chandramma

…….Petitioner

Vs.

1. The Union of India, represented by the Ministry of Rural Development, Department of Land Resources, represented by the Chief Secretary, New Delhi and two others.

……Respondents.

W.P.NO.11351 OF 2005

The Gram Panchayat, Nirjintha, represented by its Sarpanch Smt. Rama Devi

…….Petitioner

Vs.

1.The Union of India, represented by the Ministry of Rural Development, Department of Land Resources, through its GOI, New Delhi and three others.

……Respondents.

Dt. 31.08.2005

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O R D E R:

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These batch of writ petitions are filed assailing the action of second respondent/Chairman, District Water Management Agency-cum-District Collector, Mahabubnagar, for exclusion of their villages from the list of villages sanctioned under Watershed Projects under DPAP-9th Batch, as per HARIYALI Guidelines, 2003-2004.

Since the issue involved in all these writ petitions is one and the same, they are heard together and are being disposed of by this common order.

A scheme has been introduced by the Central Government to develop the non-fertile agricultural lands by way of laying bunds, cheque dams, etc. Certain villages have been selected for grant of Water Shed Project under the scheme. All these petitioners' villages find place in the proceedings dated 09.11.2003 bearing No.D1/650/2003 issued by the Chairman, Water Management Agency, Mahabubnagar. Subsequently, another proceedings came to be issued on 28.01.2005 bearing No.D1/650/2003, wherein the petitioners' villages have not been included. Thus, these writ petitions are filed by the petitioners/Gram Panchayats.

Sri Bhajarang Sing Thakur, learned counsel representing the petitioners in all the writ petitions submits that the action of the second respondent in deleting the petitioners' villages is arbitrary and illegal. He further submits that no reasons have been assigned for excluding the villages of the petitioners/Gram Panchayats from the scheme in the proceedings dated 28.01.2005.

The second respondent filed counter affidavit in all the writ petitions. One Jagadiswar has sworn in the affidavit. It is stated in the counter affidavit that the petitioners' villages came to be excluded since they were not approved by the governing body of the concerned District. I deem it appropriate to refer para 2 of the counter affidavit and it reads as follows:

> "*It is submitted that the writ petition is not maintainable. There is no statutory rule or provision, which has been violated for the purpose of maintenance of writ petition. In the absence of any fundamental, constitutional, statutory rights of the petitioner have been violated, the petitioner can not invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India"*

Before adverting to various averments made in the reply affidavit, I deem it appropriate to refer guidelines issued by the Government for Watershed Development in 1994. As per the guidelines, around 500 hectares of land (approximately) in every village have to be developed. Later, for effective functioning of watersheds, revised guidelines have been issued in 2003 under the name of HARIYALI Guidelines. As per these guidelines, under Sub-clause–VI of Clause-5, any new Water Shed is to be alloted, it should be surrounded by other watersheds. As per the original guidelines for these watersheds, it is mandatory that any proposal for Watershed has to be approved by the Governing body of the concerned District.

A reply affidavit has been filed by the petitioner in W.P.No.8438 of 2005 and it s stated in the reply affidavit that Watershed Villages of viz., Polepally, Dudyal I & II of Bomraspet Mandal, Togapur and Sarjikhanpet are nearby villages to the petitioners' village.

Heard the learned counsel for the petitioner and the learned Additional Standing Counsel appearing for the respondents and also the learned G.P. for Revenue appearing for the third respondent-Gram Panchayat in W.P.NO.6020.

The learned counsel for the petitioners submits that deletion of the petitioners' villages in the proceedings dated 28.01.2005 is arbitrary. The reasons assigned in the affidavit filed by the second respondent for deletion of the petitioners' villages in the subsequent proceedings are invented for the purpose of inclusion of some other villages of their choice.

The learned Government Pleader for Panchayat Raj & Rural Development appearing for the second respondent submits that no writ of Mandamus can be issued for implementation of the guidelines since the guidelines do not vest any statutory or legal right with the beneficiaries. Reliance has been placed on the

decision of our High Court in ***C.DAYAKAR REDDY AND OTHERS VS. DISTRICT COLLECTOR-CUM-CHAIRMAN, THE WATERSHED DEVELOPMENT COMMITTEE, MAHABOOBNAGAR.*** Para 8 of the judgment need be noted and it reads as follows:

> "*Be that as it may, there are no rules framed whatsoever either by the State Government or by the Central Government prescribing the mode and method of constituting the Committee. The mode and method of constituting and selecting the Committees at various levels is provided by a scheme. The scheme is printed in the form of a bulletin to the information of the general public. The scheme framed is not with reference to any statute as such. It is thus clear that there is neither any Statute nor any Rules framed under any Statute regulating the mode and method of constitution of the Committee. The duties and responsibilities of the members of the Committee is also not specified by any statute. The instructions contained in the booklet characterized by the petitioners as the "Rules" are in the nature of broad and general guidelines as to how the Committees at village levels are required to be constituted. The guidelines do not create any corresponding rights in any of the villagers or beneficiaries of the scheme nor those guidelines create any obligation and impose any duties upon the respondents. It is one of those developmental schemes intended for the better management and utilization of sub-soil water resources. Even according to the guidelines, the Watershed Committee after its constitution is required to be registered as a Society under the Societies Registration Act. The body thus constituted either at the village level or the District level is not a statutory body nor constituted under any statute".*

In ***J.R.RAGHUPATHY VS. STTE OF A.P.AND OTHERS*** the Apex Court observed as follows:

> "*It is well settled that* ***mandamus*** *does not lie to enforce departmental manuals or instructions not having any statutory force which do not give rise to any legal right in favour of the petitioner*"

The petitioners in these writ petitions seek a writ of Mandamus calling for the records of the Chairman, District Water Management Agency/District Collector, Mahabubnagar in proceedings No.D1/650/2003, dated 28.01.2005 and declare that removing of the existing names of the petitioners' villages from the list of villages sanctioned under Watershed Projects under DPAP-9th Batch, as per HARIYALI Guidelines, 2003-2004, in proceedings No.D1/650/2003, dated 09.11.2003 of the second respondent as illegal.

Respondent No.2 has given the procedure adopted in selecting the villages. The reason for exclusion of the villages in the subsequent proceedings is two folded. Firstly, the petitioners' villages were not recommended by the governing body of the concerned District and secondly, the petitioners' villages are not surrounded by watershed villages. Though the second contention has been disputed by the petitioner in the reply affidavit, it is not within the scope of the writ jurisdiction to adjudicate upon the facts in dispute. The second respondent has issued the proceedings impugned in the writ petitions basing on the approval of the governing body. Therefore, the second respondent cannot be found fault in excluding the petitioners' villages from the list of beneficiaries.

Accordingly, the writ petitions are devoid of merits and they are hereby dismissed. No costs.

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B.SESHASAYANA REDDY J.,

Dt.31.08.2005

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